



Zoning Administrator Hearing

Minutes

Mizner Conference Room
Mesa City Plaza Building, Suite 130
20 East Main Street
Mesa, Arizona, 85201

John S. Gendron
Hearing Officer

DATE July 10, 2007

TIME 1:30 P.M.

Staff Present

Jeff McVay
Jim Hash
Constance Bachman

Others Present

Scott Quinn
Marcus Ellsworth
Reese Anderson
Leo Schorwald
Randy Carter

CASES

Case No.: ZA07-066

Location: 1455 Southern Avenue

Subject: Requesting a Special Use Permit to allow a special event to exceed four days in the C-2 zoning district (This case was continued from the July 3rd Hearing)

Decision: Approved with the following conditions:
1) *Compliance with the site plans submitted with the additions listed below.*
2) *Compliance with the operational plan.*
3) *The pre-show staging area light show shall require staff review and approval prior to use.*
4) *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Summary: Mr. Ellsworth represented the SUP request, noting the lighting and the use of low voltage LED lights to provide effects for the attraction. Mr. Ellsworth also explains the use of the radio tuner to attract people in their vehicles to the attractions. Mr. Ellsworth described the full color fence screen that will screen the event from the outside. This will include sponsor listings. The fence screen will be 6ft x 100ft. Mr. Hash recommended an additional condition pre-show light show be approved by staff prior to the construction. Mr. Gendron noted compatibility of the site with the use in approving the request.

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Finding of Fact:

- The Special Use Permit (SUP) allows the applicant to operate a haunted attraction from September 27, 2007 to November 3, 2007 (as listed in the submitted hours of operation).
- The attraction will be located on the SEC of the Fiesta Mall property that fronts Alma School Road and the US 60 freeway. The attraction has contracted with the Fiesta Mall to provide cross access and reciprocal parking to the event.
- The attraction will utilize tents that have independent façades at the entrance to each tent. There will be a pre-show area that will have a burning tree and an area where a live show will take place to entertain the customers while in line for the attraction.
- The attraction will be secured by off duty Mesa Police Officers that will patrol the area and parking lot, as well as surveillance cameras and all employees will have radio contact for emergencies.
- Fencing will be erected five weeks prior to the event to enclose the event space for the construction and setup of the attraction. During that time the fenced area will be entirely screened by fabric type material that will announce the upcoming event. That screening will be taken away on all but the west side one week before September 29, 2007
- The applicant's request includes the use of a professionally designed sign beginning September 1st. The sign will be placed at the far east end of the lot and will consist of two pillars that are 2.5'x 12' that will support the main sign area that will be 10'x5' (50 SF) and illuminated by ground mounted indirect lighting

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Case No.: ZA07-069

Location: 242 South El Dorado Circle

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the expansion of an existing office use in the M-1 zoning district.

Decision: Continued to July 17, 2007

Summary: N/A

Finding of Fact: N/A

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Case No.: ZA07-070

Location: 3250 North Red Mountain

Subject: Requesting a Special Use Permit to allow a commercial communication tower to be constructed in the R1-90 zoning district.

Decision: Approved with the following conditions:

1. *Compliance with the site plan submitted, except as modified by the conditions below.*
2. *Compliance with all requirements of Design Review staff review prior to submittal for building permits..*
3. *The Special Use Permit shall expire if not exercised, or if a building permit has not been issued within one (1) year of official action.*
4. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Summary: Mr. Quinn represented the SUP request, noting that this clock tower was originally approved to be located at Las Sendas Elementary School. The school chose not to provide a lease and as part of the Cingular reorganization to AT&T, the new location was identified. Mr. Quinn stated that is tower is a dual carrier tower and that is the reason that 65 feet is being requested. Mr. Gendron discussed the request with the applicant and staff. Mr. McVay provided a staff report and recommendation. Mr. Gendron noted the compatibility of the communication tower with the surrounding community in approving the request.

Finding of Fact:

- The SUP allows construction of a 65-foot tall stealth clock tower Commercial Communication Tower. The communication tower would include a three-sector antenna array with two antennas per sector at a 60-foot RAD center. Associated ground mounted equipment would be located within a 50' x 50' lease area and enclosed by an eight-foot tall stuccoed and painted block wall.
- The proposed Commercial Communication Tower complies with the Mesa Commercial Communication Tower Guidelines, adopted by City Council in 1997, related to setbacks from public streets and adjacent residential properties.
- The Commercial Communication Tower further complies with the adopted Commercial Communication Tower Guidelines by utilizing a stealth clock tower design that camouflages the antennas and through the provision of area for future co-location of additional carriers.
- The Commercial Communication Tower has received the approval of the Las Sendas architectural committee and is compatible with and not detrimental to surrounding properties. As further evidence of compatibility, it should be noted that a similar communication tower, that will not be constructed, was approved by the Board of Adjustment to be located on the Las Sendas Elementary School property in 2006.

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- The proposed Commercial Communication Tower must further receive the review and approval of Design Review staff prior to submittal for building permits.

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Case No.: ZA07-071

Location: 160 North Power Road

Subject: Requesting a Development Incentive Permit (DIP) to allow construction of a two-story medical and general office building in the O-S zoning district.

Decision: Approved with the following conditions:

1. *Compliance with the site and landscape plan submitted, except as modified by the conditions below.*
2. *Compliance with all requirements and conditions of approval for case Z07-46.*
3. *Compliance with all requirements of the Design Review Board.*
4. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Summary: Mr. Carter represented the DIP request, noting that the building is in alignment with the adjacent building and does not extend in front of other buildings. Mr. Gendron discussed the DIP request with the applicant and staff. Mr. McVay provided a staff report and recommendation. Mr. Gendron noted the shape of the parcel, consistency with the definition of a by-passed parcel, and consistency with the intent of Code requirements.

Finding of Fact:

- The Development Incentive Permit (DIP) allows deviations from current development standards related to setbacks from Power Road, Albany Street, Akron Street, and the west property line and reduced landscaping requirements related to the development of an approximately 15,000 square foot medical and general office building.
- The subject site is eligible for review of a DIP. The site is approximately 1.2 acres and has been in the current configuration for more than 10 years. The site is served by, or has direct access to, existing utility system. The total developable land area within 1,200 feet is not more than 25 percent vacant and greater than 50 percent of the lots within 1,200 feet have been developed for more than 15 years.
- The proposed use is consistent with the General Plan designation of Community Commercial and is a permitted use in the O-S zoning district.
- The deviations are necessary to accommodate the proposal and will result in a development that is commensurate with existing development in the vicinity.
- The architectural elements and landscape plan are the subject of a Design Review Board case DR07-83 scheduled for July 5, 2007, has been through a Design Review Board work session, and will meet the intent of the Design Guidelines of the Zoning Ordinance.
- The subject site plan received the review and approval of the Planning and Zoning Board and City Council through case Z07-46.

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Case No.: ZA07-073

Location: 1130 West Southern Avenue

Subject: Requesting a variance to allow existing nonconforming signs to remain in the C-2 zoning district.

Decision: Approved as submitted.

Summary: Mr. Anderson represented the variance request, noting that the applicant has concerns with the condition of approval that pertains with the removal of the existing non-conforming signs by July 10, 2009. Mr. Anderson states that the existing monument sign was part of a use permit from the original case approved in the 1980's and should not be brought into question for the purposes of this case. Kimco the owner of the group center has submitted a letter which states that they are going to be coming forward with a proposal to redo the complete center as well as the existing comp sign plan. Mr. Anderson states that he does not have the authority to bind Kimco on this stipulation and that his client is only Walgreens.

Mr. Gendron confirmed that the nonconforming sign plan was approved as a variance to allow exception to the height and area. In approving the request, Mr. Gendron removed the recommended, but a letter within 10 days, stating that Walgreens has no legal authority to remove the sign.

Finding of Fact:

- The variance allows an existing nonconforming signs within the Poca Fiesta shopping center to remain. The applicant recently received Site Plan Modification, Design Review, and Substantial Conformance Improvement Permit approvals to allow the development of a Walgreens within the Poca Fiesta shopping center. Strict application of current Code would require all nonconforming signs within the entire Poca Fiesta shopping center to be brought into conformance with current Code as part of the development of Walgreens, specifically the 50-foot tall Poca Fiesta pylon sign.
- As justification for the requested variance, the applicant has noted: 1) that the shopping center was constructed under a prior version of a Zoning Ordinance that allowed the existing signs, 2) the owners of the shopping center anticipate a renovation of the entire center, and 3) as part of the shopping center renovation, the Comprehensive Sign Plan and existing signage will be modified.
- Strict application of Code would require one tenant in a large multi-tenant complex to bring all nonconforming signs into conformance with current Code requirements. Such requirement does not provide a rational nexus between the requested Walgreens development and the required signage improvements.

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- The applicant has provided a letter from Kimco Realty Corporation that highlights the company's intent to create a new sign program as part of the shopping center renovation.

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There being no further business to come before the Zoning Administrator, the hearing adjourned at xx:xx p.m.

The cases for this hearing were recorded and are available upon request.

Respectfully submitted,

John S. Gendron
Hearing Officer

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